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(Original Signature of Member)

109TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Immigration and Nationality Act to enforce restrictions on employment in the United States of unauthorized aliens through the use of improved Social Security cards and an Employment Eligibility Database, and for other purposes.

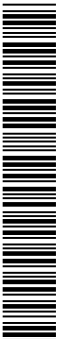
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**IN THE HOUSE OF REPRESENTATIVES**

Mr. DREIER (for himself, Mr. BRADLEY of New Hampshire, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Immigration and Nationality Act to enforce restrictions on employment in the United States of unauthorized aliens through the use of improved Social Security cards and an Employment Eligibility Database, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Illegal Immigration  
3 Enforcement and Social Security Protection Act of 2005”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) The Bonner Plan, as reflected in the terms  
7 of this Act, is an appropriate response to the need  
8 to improve procedures to preclude unauthorized em-  
9 ployment of aliens and prevent the entry of terror-  
10 ists into the United States.

11 (2) The economic disparity between the United  
12 States and other countries is a prime factor in the  
13 desire of foreign nationals to enter the United States  
14 illegally.

15 (3) Federal law prohibits the employment of  
16 such illegal immigrants in the United States.

17 (4) Nonetheless, illegal immigrants routinely  
18 find employment within the United States.

19 (5) Such employment of illegal immigrants un-  
20 dermines our system of lawful immigration and has  
21 a negative impact on job opportunities for American  
22 workers.

23 (6) Employers in the United States currently  
24 have difficulty establishing the veracity of the iden-  
25 tity documents of prospective employees in order to  
26 verify their work eligibility.



1 (7) Pilot programs undertaken by the Federal  
2 Government demonstrate that a nationwide employ-  
3 ment verification system is feasible.

4 (8) Social Security cards are routinely required  
5 to be presented to employers by new employees.

6 (9) Social Security cards remain vulnerable to  
7 counterfeiting and fraud.

8 (10) Social Security cards with improved de-  
9 fenses against fraudulent use would serve as the best  
10 vehicle by which to determine employment eligibility.

11 (11) The Social Security card should not be-  
12 come a national identification card.

13 **SEC. 3. AMENDMENTS TO THE SOCIAL SECURITY ACT RE-**  
14 **LATING TO IDENTIFICATION OF INDIVID-**  
15 **UALS.**

16 (a) ANTIFRAUD MEASURES FOR SOCIAL SECURITY  
17 CARDS.—Section 205(c)(2)(G) of the Social Security Act  
18 (42 U.S.C. 405(c)(2)(G)) is amended—

19 (1) by inserting “(i)” after “(G)”;

20 (2) by striking “banknote paper” and inserting  
21 “durable plastic or similar material”; and

22 (3) by adding at the end the following new  
23 clauses:

24 “(ii) Each Social Security card issued under this sub-  
25 paragraph shall include an encrypted machine-readable



1 electronic identification strip which shall be unique to the  
2 individual to whom the card is issued. The Commissioner  
3 shall develop such electronic identification strip in con-  
4 sultation with the Secretary of Homeland Security, so as  
5 to enable employers to use such strip in accordance with  
6 section 274A(a)(1)(B) of the Immigration and Nationality  
7 Act (8 U.S.C. 1324a(a)(1)(B)) to obtain access to the Em-  
8 ployment Eligibility Database established by such Sec-  
9 retary pursuant to section 4 of such Act with respect to  
10 the individual to whom the card is issued.

11 “(iii) Each Social Security card issued under this  
12 subparagraph shall contain—

13 “(I) physical security features designed to pre-  
14 vent tampering, counterfeiting, or duplication of the  
15 card for fraudulent purposes; and

16 “(II) a disclaimer stating the following: ‘This  
17 card shall not be used for the purpose of identifica-  
18 tion.’.

19 “(iv) The Commissioner shall provide for the issuance  
20 (or reissuance) to each individual who—

21 “(I) has been assigned a Social Security ac-  
22 count number under subparagraph (B),

23 “(II) has attained the minimum age applicable,  
24 in the jurisdiction in which such individual engages



1 in employment, for legally engaging in such employ-  
2 ment, and

3 “(III) files application for such card under this  
4 clause in such form and manner as shall be pre-  
5 scribed by the Commissioner,

6 a Social Security card which meets the preceding require-  
7 ments of this subparagraph and which includes a recent  
8 digitized photograph of the individual to whom the card  
9 is issued.

10 “(v) The Commissioner shall maintain an ongoing ef-  
11 fort to develop measures in relation to the Social Security  
12 card and the issuance thereof to preclude fraudulent use  
13 thereof.”.

14 (b) SHARING OF INFORMATION WITH THE SEC-  
15 RETARY OF HOMELAND SECURITY.—Section 205(c)(2) of  
16 such Act is amended by adding at the end the following  
17 new subparagraph:

18 “(I) Upon the issuance of a Social Security account  
19 number under subparagraph (B) to any individual or the  
20 issuance of a Social Security card under subparagraph (G)  
21 to any individual, the Commissioner of Social Security  
22 shall transmit to the Secretary of Homeland Security such  
23 information received by the Commissioner in the individ-  
24 ual’s application for such number or such card as such  
25 Secretary determines necessary and appropriate for ad-



1 ministration of the Illegal Immigration Enforcement and  
2 Social Security Protection Act of 2005. Such information  
3 shall be used solely for inclusion in the Employment Eligi-  
4 bility Database established pursuant to section 4 of such  
5 Act.”.

6 (c) EFFECTIVE DATES.—The amendment made by  
7 subsection (a) shall apply with respect to Social Security  
8 cards issued after 2 years after the date of the enactment  
9 of this Act. The amendment made by subsection (b) shall  
10 apply with respect to the issuance of Social Security ac-  
11 count numbers and Social Security cards after 2 years  
12 after the date of the enactment of this Act.

13 **SEC. 4. EMPLOYMENT ELIGIBILITY DATABASE.**

14 (a) IN GENERAL.—The Secretary of Homeland Secu-  
15 rity shall establish and maintain an Employment Eligi-  
16 bility Database. The Database shall include data com-  
17 prised of the citizenship status of individuals and the work  
18 and residency eligibility information (including expiration  
19 dates) with respect to individuals who are not citizens or  
20 nationals of the United States but are authorized to work  
21 in the United States. Such data shall include all such data  
22 maintained by the Department of Homeland Security as  
23 of the date of the establishment of such database and in-  
24 formation obtained from the Commissioner of Social Secu-  
25 rity pursuant to section 205(c)(2)(I) of the Social Security



1 Act. The Secretary shall maintain ongoing consultations  
2 with the Commissioner to ensure efficient and effective op-  
3 eration of the Database.

4 (b) INCORPORATION OF ONGOING PILOT PRO-  
5 GRAMS.—To the extent that the Secretary determines ap-  
6 propriate in furthering the purposes of subsection (a), the  
7 Secretary may incorporate the information, processes, and  
8 procedures employed in connection with the Citizen Attes-  
9 tation Verification Pilot Program and the Basic Pilot Pro-  
10 gram into the operation and maintenance of the Database  
11 under subsection (a).

12 (c) CONFIDENTIALITY.—

13 (1) IN GENERAL.—No officer or employee of  
14 the Department of Homeland Security shall have ac-  
15 cess to any information contained in the Database  
16 for any purpose other than—

17 (A) the establishment of a system of  
18 records necessary for the effective administra-  
19 tion of this Act; or

20 (B) any other purpose the Secretary of  
21 Homeland Security deems to be in the national  
22 security interests of the United States.

23 (2) RESTRICTION.— The Secretary shall re-  
24 strict access to such information to officers and em-  
25 ployees of the United States whose duties or respon-



1       sibilities require access for the purposes described in  
2       paragraph (1).

3           (3) OTHER SAFEGUARDS.—The Secretary shall  
4       provide such other safeguards as the Secretary de-  
5       termines to be necessary or appropriate to protect  
6       the confidentiality of information contained in the  
7       Database.

8           (d) DEADLINE FOR MEETING REQUIREMENTS.—The  
9       Secretary shall complete the establishment of the Data-  
10      base and provide for the efficient and effective operation  
11      of the Database in accordance with this section not later  
12      than 2 years after the date of the enactment of this Act.

13   **SEC. 5. REQUIREMENTS RELATING TO INDIVIDUALS COM-**  
14           **MENCING WORK IN THE UNITED STATES.**

15           (a) REQUIREMENTS FOR EMPLOYERS AND EMPLOY-  
16      EES.—Section 274A(a)(1) of the Immigration and Nation-  
17      ality Act (8 U.S.C. 1324a(a)(1)) is amended to read as  
18      follows:

19           “(1) IN GENERAL.—

20           “(A) REQUIREMENTS FOR EMPLOYEES.—

21           No individual may commence employment with  
22           an employer in the United States unless such  
23           individual has—

24                   “(i) obtained a Social Security card  
25                   issued by the Commissioner of Social Secu-





1           rity meeting the requirements of section  
2           205(c)(2)(G)(iii) of the Social Security  
3           Act; and

4           “(ii) displayed such card to the em-  
5           ployer pursuant to the employer’s request  
6           for purposes of the verification required  
7           under subparagraph (B).

8           “(B) REQUIREMENTS FOR EMPLOYERS.—

9           “(i) IN GENERAL.—No employer may  
10          hire for employment an individual in the  
11          United States in any capacity unless such  
12          employer verifies under this subparagraph  
13          that such individual has in his or her pos-  
14          session a Social Security card issued to  
15          such individual pursuant to section  
16          205(c)(2)(G) of the Social Security Act  
17          which bears a photograph of such indi-  
18          vidual and that such individual is author-  
19          ized to work in the United States in such  
20          capacity. Such verification shall be made in  
21          accordance with procedures prescribed by  
22          the Secretary of Homeland Security for the  
23          purposes of ensuring against fraudulent  
24          use of the card and accurate and prompt  
25          verification of the authorization of such in-



1           dividual to work in the United States in  
2           such capacity.

3           “(ii) VERIFICATION PROCEDURES.—

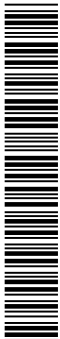
4           Such procedures shall include use of—

5                   “(I) a phone verification system  
6                   which shall be established by the Sec-  
7                   retary; or

8                   “(II) a card-reader verification  
9                   system employing a device approved  
10                  by the Secretary as capable of reading  
11                  the electronic identification strip  
12                  borne by the card so as to verify the  
13                  identity of the card holder and the  
14                  card holder’s authorization to work,  
15                  and which is made available at mini-  
16                  mal cost to the employer.

17                  “(iii) SECURITY AND EFFECTIVE-  
18                  NESS.—The Secretary shall ensure that  
19                  the phone verification system described in  
20                  subparagraph (I) of clause (ii) is as secure  
21                  and effective as the card-reader verification  
22                  system described in subparagraph (II) of  
23                  such clause.

24                  “(iv) ACCESS TO DATABASE.—The  
25                  Secretary shall ensure that, by means of



1           such procedures, the employer will have  
2           such access to the Employment Eligibility  
3           Database established and operated by the  
4           Secretary pursuant to section 4 of the Ille-  
5           gal Immigration Enforcement and Social  
6           Security Protection Act of 2005 as to en-  
7           able the employer to obtain information,  
8           relating to the citizenship, residency, and  
9           work eligibility of the individual seeking  
10          employment by the employer in any capac-  
11          ity, which is necessary to inform the em-  
12          ployer as to whether the individual is au-  
13          thorized to work for the employer in the  
14          United States in such capacity.

15                 “(v) DEFENSE.—An employer who es-  
16                 tablishes that the employer complied in  
17                 good faith with the requirements of this  
18                 subparagraph shall not be liable for hiring  
19                 an unauthorized alien, if—

20                         “(I) such hiring occurred due to  
21                         an error in the phone verification sys-  
22                         tem, the card-reader verification sys-  
23                         tem, or the Employment Eligibility  
24                         Database which was unknown to the



1 employer at the time of such hiring;  
2 and  
3 “(II) the employer terminates  
4 that employment of the alien upon  
5 being informed of the error.”.

6 (b) CONFORMING AMENDMENTS.—Section 274A of  
7 the Immigration and Nationality Act (8 U.S.C. 1324a) is  
8 amended—

9 (1) in subsection (a), by striking paragraphs  
10 (3), (5), and (6) and redesignating paragraphs (4)  
11 and (7) as paragraphs (3) and (4), respectively;

12 (2) in subsection (b)—

13 (A) by striking “Attorney General” each  
14 place such term appears and inserting “Sec-  
15 retary of Homeland Security”;

16 (B) by amending the matter preceding  
17 paragraph (2) to read as follows:

18 “(b) EMPLOYMENT VERIFICATION FORMS.—

19 “(1) EMPLOYER ATTESTATION OF COMPLI-  
20 ANCE.—The verification procedures prescribed under  
21 subsection (a)(1)(B) shall include an attestation,  
22 made under penalty of perjury and on a form des-  
23 ignated or established by the Secretary of Homeland  
24 Security by regulation, that the employer has com-  
25 plied with such procedures.”; and



1 (C) by striking paragraph (6);  
2 (3) by striking subsection (d); and  
3 (4) by amending subsection (h)(3) to read as  
4 follows:

5 “(3) DEFINITIONS.—For purposed of this sec-  
6 tion:

7 “(A) The term ‘authorized to work in the  
8 United States’, when applied to an individual,  
9 means that the individual is not an unauthor-  
10 ized alien.

11 “(B) The term ‘employer’ means—

12 “(i) any person or entity who hires an  
13 individual; or

14 “(ii) any individual earning self-em-  
15 ployment income (as defined in section  
16 211(b) of the Social Security Act (42  
17 U.S.C. 411(b))).

18 “(C) The term ‘employee’ shall have the  
19 meaning given such term in section 210(j) of  
20 the Social Security Act (42 U.S.C. 410(j)).

21 “(D) The term ‘hire’ means to hire an in-  
22 dividual, or to recruit or refer for a fee an indi-  
23 vidual, for employment in the United States.

24 “(E) The term ‘unauthorized alien’ means,  
25 with respect to the employment of an alien at



1 a particular time, that the alien is not at that  
2 time—

3 “(i) an alien lawfully admitted for  
4 permanent residence; or

5 “(ii) authorized to be so employed by  
6 this Act or by the Secretary of Homeland  
7 Security.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect 2 years after the date of the  
10 enactment of this Act and shall apply to employment of  
11 any individual in any capacity commencing on or after  
12 such effective date.

13 **SEC. 6. COMPLIANCE.**

14 (a) IN GENERAL.—Section 274A(e) of the Immigra-  
15 tion and Nationality Act (8 U.S.C. 1324a(e)) is amended  
16 to read as follows:

17 “(e) COMPLIANCE.—

18 “(1) CIVIL PENALTY.—

19 “(A) IN GENERAL.—The Secretary of  
20 Homeland Security may assess a penalty, pay-  
21 able to the Secretary, against any employer  
22 who—

23 “(i) hires an individual for employ-  
24 ment in the United States in any capacity  
25 who is known by the employer not to be



1 authorized to work in the United States in  
2 such capacity; or

3 “(ii) fails to comply with the proce-  
4 dures prescribed by the Secretary pursuant  
5 to this section in connection with the em-  
6 ployment of any individual.

7 “(B) AMOUNT.—Such penalty shall not ex-  
8 ceed \$50,000 for each occurrence of a violation  
9 described in subparagraph (A) with respect to  
10 the individual, plus, in the event of the removal  
11 of such individual from the United States based  
12 on findings developed in connection with the as-  
13 sessment or collection of such penalty, the costs  
14 incurred by the Federal Government, cooper-  
15 ating State and local governments, and State  
16 and local law enforcement agencies, in connec-  
17 tion with such removal.

18 “(2) ACTIONS BY SECRETARY.—If any person is  
19 assessed under paragraph (1) and fails to pay the  
20 assessment when due, or any person otherwise fails  
21 to meet any requirement of this section, the Sec-  
22 retary may bring a civil action in any district court  
23 of the United States within the jurisdiction of which  
24 such person’s assets are located or in which such  
25 person resides or is found for the recovery of the



1 amount of the assessment or for appropriate equi-  
2 table relief to redress the violation or enforce the  
3 provisions of this section, and process may be served  
4 in any other district. The district courts of the  
5 United States shall have jurisdiction over actions  
6 brought under this section by the Secretary without  
7 regard to the amount in controversy.

8 “(3) CRIMINAL PENALTY.—Any person who—

9 “(A) hires for employment any individual  
10 in the United States in any capacity who such  
11 person knows not to be authorized to work in  
12 the United States in such capacity; or

13 “(B) hires for employment any individual  
14 in the United States and fails to comply with  
15 the procedures prescribed by the Secretary pur-  
16 suant to section 5(b) in connection with the hir-  
17 ing of such individual;

18 shall upon conviction be fined in accordance with  
19 title 18, United States Code, or imprisoned for not  
20 more than 5 years, or both.”.

21 (b) CONFORMING AMENDMENTS.—Section 274A of  
22 the Immigration and Nationality Act (8 U.S.C. 1324a) is  
23 amended—

24 (1) in subsection (g)(2), by striking “hearing  
25 under subsection (e),” and inserting “hearing,” ;





1 (2) by striking subsection (f); and

2 (3) by redesignating subsections (e), (g), and  
3 (h) as subsections (d), (e), and (f), respectively.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect 2 years after the date of the  
6 enactment of this Act and shall apply to employment of  
7 any individual in any capacity commencing on or after  
8 such effective date.

9 **SEC. 7. GRANTS FOR TECHNOLOGIES TO COMBAT ILLEGAL**  
10 **BORDER CROSSINGS.**

11 (a) IN GENERAL.—The Secretary of Homeland Secu-  
12 rity is authorized to make grants for the purpose of im-  
13 proving and developing new technologies to combat illegal  
14 border crossings into the United States.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
16 are authorized to be appropriated to carry out subsection  
17 (a) \$10,000,000 for each of fiscal years 2006 through  
18 2010.

19 **SEC. 8. INCREASE IN PERSONNEL ENSURING COMPLIANCE**  
20 **WITH PROHIBITIONS ON UNLAWFUL EMPLOY-**  
21 **MENT OF ALIENS .**

22 Beginning in fiscal year 2005, the Secretary of  
23 Homeland Security shall, subject to the availability of ap-  
24 propriations for such purpose, increase by not less than  
25 10,000 the number of positions within the Department of



1 Homeland Security for full-time personnel charged with  
2 carrying out section 274A(d) of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1324a(d)), as amended by section  
4 6 of this Act, above the number of such positions for which  
5 funds were made available for fiscal year 2004.

6 **SEC. 9. INTEGRATION OF FINGERPRINTING DATABASES.**

7       The Secretary of Homeland Security and the Attor-  
8 ney General of the United States shall jointly undertake  
9 to integrate the fingerprint database maintained by the  
10 Department of Homeland Security with the fingerprint  
11 database maintained by the Federal Bureau of Investiga-  
12 tion. The integration of databases pursuant to this section  
13 shall be completed not later than 2 years after the date  
14 of the enactment of this Act.

15 **SEC. 10. AUTHORIZATIONS OF APPROPRIATIONS.**

16       (a) DEPARTMENT OF HOMELAND SECURITY.—Ex-  
17 cept as otherwise provided in this Act, there are author-  
18 ized to be appropriated to the Department of Homeland  
19 Security for each fiscal year beginning on or after October  
20 1, 2005, such sums as may be necessary to carry out this  
21 Act and the amendments made by this Act, of which not  
22 less than \$100,000,000 shall be for the purpose of car-  
23 rying out section 274A(d) of the Immigration and Nation-  
24 ality Act (8 U.S.C. 1324a(d)), as amended by section 6  
25 of this Act.



1 (b) SOCIAL SECURITY ADMINISTRATION.—There are  
2 authorized to be appropriated to the Social Security Ad-  
3 ministration for each fiscal year beginning on or after Oc-  
4 tober 1, 2005, such sums as are necessary to carry out  
5 the amendments made by section 3.

6 **SEC. 11. RULES OF CONSTRUCTION.**

7 (a) IN GENERAL.—Nothing in this Act shall be  
8 construed—

9 (1) to require the presentation of a Social Secu-  
10 rity card for any purpose other than—

11 (A) for the administration and enforce-  
12 ment of the Social Security laws of the United  
13 States; or

14 (B) for the purpose of implementing and  
15 enforcing this Act and the amendments made  
16 by this Act; or

17 (2) to require the Social Security card to be  
18 carried by an individual.

19 (b) NO NATIONAL IDENTIFICATION CARD.—It is the  
20 policy of the United States that the Social Security card  
21 shall not be used as a national identification card.

